IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1904.

No. 284.

THE SUPREME LODGE, KNIGHTS OF PYTHIAS,
Plaintiff in Error,

vs.

HENRIETTA MEYER,
Defendant in Error.

In Error to the Supreme Court of the State of New York.

REPLY BRIEF OF PLAINTIFF IN ERROR.

POINT ONE.

The Plaintiff-in-Error had a vested right to introduce the excluded medical evidence of which no State could deprive it by any statute.

As has been shown in the brief in chief the contract of assurance in this case was based upon assessments materially smaller than would have had to have been the case had the suicide risk, or the difficulty of proving the suicide in such a State as New York, been included.

The Plaintiff-in-Error had, therefore, purchased exemption from liability to pay the full amount in cases of suicide, **and had also purchased exemption from the**

great difficulty of proving the fact of suicide without the aid of physician's testimony for a good and valuable consideration.

The absolute right of the plaintiff-in-error to have the advantage of the uncontrovertible evidence of suicide contained in the excluded depositions became vested at the birth of the contract. This event took place on September 20, 1894, at Chicago, Illinois, (brief in chief, page 61). No subterfuge of carrying the cause into a particular jurisdiction would enable the Legislature of that State to thwart the contract by any act impairing the obligation of the defendant-in-error to permit the reception of the particular kind of evidence for which the member had contracted.

The plaintiff-in-error had acquired a vested right to introduce the evidence, and the statute cited upon the brief of defendant-in-error (§§ 834 and 836, C. C. P.) impairs that vested right—i. e., impairs the obligation of the contract.

Therefore the writ of error should be sustained, the judgment reversed and the cause remanded for further proceedings not inconsistent with this Honorable Court's opinion herein.

Respectfully submitted,

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